

1 TERRY GODDARD  
Attorney General  
2 Firm State Bar No. 14000

3 ELIZABETH A. CAMPBELL  
Assistant Attorney General  
4 State Bar No. 018311  
1275 W. Washington, CIV/LES  
5 Phoenix, Arizona 85007-2997  
Tel: (602) 542-7979  
6 Fax: (602) 364-3202

7 Attorneys for the Arizona State Board of Pharmacy

8  
9 **BEFORE THE ARIZONA STATE BOARD OF PHARMACY**

10 In the Matter of

11 **ROSALIE CANAYA**

12 Holder of License No. 5700  
As a Pharmacy Technician  
13 In the State of Arizona

Board Case No. 08-0032-PHR

**CONSENT AGREEMENT  
AND ORDER FOR SUSPENSION  
AND PROBATION**

14  
15 **RECITALS**

16 In the interest of a prompt and judicious settlement of this case, consistent with the  
17 public interest, statutory requirements and the responsibilities of the Arizona State Board  
18 of Pharmacy ("Board") under A.R.S. §§ 32-1901, *et. seq.*, Rosalie Canaya  
19 ("Respondent"), holder of Arizona Pharmacy Technician License Number 5700, and the  
20 Board enter into the following Recitals, Findings of Fact, Conclusions of Law and Order  
21 ("Consent Agreement") as a final disposition of this matter.

22 1. Respondent has read and understands this Consent Agreement and has had  
23 the opportunity to discuss this Consent Agreement with an attorney, or has waived the  
24 opportunity to discuss this Consent Agreement with an attorney.

1           2.     Respondent understands that she has a right to a public administrative  
2 hearing concerning the above-captioned matter, at which hearing she could present  
3 evidence and cross examine witnesses. By entering into this Consent Agreement,  
4 Respondent knowingly and voluntarily relinquishes all right to such an administrative  
5 hearing, as well as rights of rehearing, review, reconsideration, appeal, judicial review or  
6 any other administrative and/or judicial action, concerning the matters set forth herein.

7           3.     Respondent affirmatively agrees that this Consent Agreement shall be  
8 irrevocable.

9           4.     Respondent understands that this Consent Agreement or any part of the  
10 agreement may be considered in any future disciplinary action by the Board against her.

11          5.     Respondent understands this Consent Agreement deals with Board  
12 Complaint No. 3460 involving allegations of unprofessional conduct against Respondent.  
13 The investigation into these allegations against Respondent shall be concluded upon the  
14 Board's adoption of this Consent Agreement.

15          6.     Respondent understands that this Consent Agreement does not constitute a  
16 dismissal or resolution of any other matters currently pending before the Board, if any,  
17 and does not constitute any waiver, express or implied, of the Board's statutory authority  
18 or jurisdiction regarding any other pending or future investigation, action or proceeding.

19          7.     Respondent also understands that acceptance of this Consent Agreement  
20 does not preclude any other agency, subdivision, or officer of this State from instituting  
21 any other civil or criminal proceedings with respect to the conduct that is the subject of  
22 this Consent Agreement.

23          8.     All admissions made by the Respondent in this Consent Agreement are  
24 made solely for the final disposition of this matter, and any related administrative  
25 proceedings or civil litigation involving the Board and Respondent. Therefore, any  
26

1 admissions made by Respondent in this Consent Agreement are not intended for any  
2 other use, such as in the context of another regulatory agency's proceedings, or civil or  
3 criminal proceedings, whether in the State of Arizona or in any other state or federal  
4 court.

5 9. Respondent acknowledges and agrees that, upon signing this Consent  
6 Agreement and returning this document to the Board's Executive Director, she may not  
7 revoke her acceptance of the Consent Agreement or make any modifications to the  
8 document regardless of whether the Consent Agreement has been signed by the  
9 Executive Director. Any modification to this original document is ineffective and void  
10 unless mutually agreed by the parties in writing.

11 10. Respondent understands that the Consent Agreement shall not become  
12 effective unless and until adopted by the Board and signed by its Executive Director.

13 11. If a court of competent jurisdiction rules that any part of this Consent  
14 Agreement is void or otherwise unenforceable, the remainder of the Consent Agreement  
15 shall remain in full force and effect.

16 12. Respondent understands and agrees that if the Board does not adopt this  
17 Consent Agreement, she will not assert as a defense that the Board's consideration of this  
18 Consent Agreement constitutes bias, prejudice, prejudgment or other similar defenses.

19 13. Respondent understands that this Consent Agreement is a public record that  
20 may be publicly disseminated as a formal action of the Board and may be reported as  
21 required by law to the National Practitioner Data Bank and the Healthcare Integrity and  
22 Protection Data Bank.

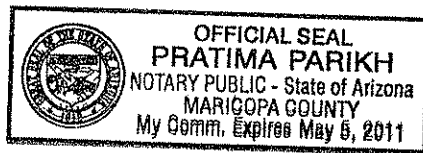
23 14. Respondent understands that any violation of this Consent Agreement  
24 constitutes unprofessional conduct and may result in disciplinary action. A.R.S. §§ 32-  
25 1901.01(C)(16), -1927.01(A)(1).

1 ACCEPTED AND AGREED BY RESPONDENT

2   
3 Rosalie Canaya

Dated: 03-05-08

4 Subscribed and sworn to before me in the County of Maricopa State of AZ.  
5 this 5th day of march 2008, by Rosalie Canaya.



  
NOTARY PUBLIC

8 My Commission expires: month 5th 2011

9

10 **FINDINGS OF FACT**

11 1. The Board is the duly constituted authority for licensing and regulating the  
12 practice of pharmacy in the State of Arizona.

13 2. Respondent is the holder of license number 5700 to practice as a pharmacy  
14 technician in the State of Arizona.

15 3. At all times relevant to this matter, Respondent was employed by Cigna  
16 Healthcare in Glendale, Arizona.

17 4. On or about October 1, 2007, Respondent's employer requested that  
18 Respondent participate in a urine drug screen. The sample was collected while  
19 Respondent was at work. Respondent tested positive for cocaine on that drug test.  
20 Respondent was terminated from employment.

21 5. Cocaine is a narcotic drug. A.R.S. § 13-3401(5) and (20).

22 **CONCLUSIONS OF LAW**

23 1. The Board possesses jurisdiction over the subject matter and over  
24 Respondent pursuant to A.R.S. § 32-1901 *et seq.*

2. Pursuant to A.R.S. § 32-1927.01(A)(1), the Board may discipline a pharmacy technician who has engaged in unprofessional conduct.

3. The conduct described above constitutes a violation of A.R.S. § 13-3408(A)(1) (A person shall not knowingly use a narcotic drug). A person who violates A.R.S. § 13-3408(A)(1) is guilty of a class 4 felony. A.R.S. § 13-3408(B)(1).

4. The conduct and circumstances described above constitutes unprofessional conduct pursuant to A.R.S. § 32-1901.01(C)(6) ("Committing a felony, whether or not involving moral turpitude, or a misdemeanor involving moral turpitude or any drug-related offense. In either case, conviction by a court of competent jurisdiction or a plea of no contest is conclusive evidence of the commission.").

5. The conduct and circumstances described above constitutes unprofessional conduct pursuant to A.R.S. § 32-1901.01(C)(7) (“Working under the influence of alcohol or other drugs.”).

6. The conduct and circumstances described above constitute unprofessional conduct pursuant to A.R.S. § 32-1901.01(C)(8) ("Violating a federal or state law or administrative rule relating to marijuana, prescription-only drugs, narcotics, dangerous drugs, controlled substances or precursor chemicals when determined by the board or by conviction in a federal or state court.")

## ORDER

Based upon the above Findings of Fact and Conclusions of Law:

IT IS HEREBY ORDERED THAT Pharmacy Technician License No. 5700 is placed on **SUSPENSION**, for a period of not less than six (6) months but not more than one (1) year. The period of suspension shall be determined by the Board after receiving a recommendation from the PAPA Steering Committee. Thereafter, Respondent's license shall be placed on **PROBATION** for a period of at least four (4) years, but not more than

1 four and one-half (4.5) years from the final date of suspension. Respondent's  
2 disciplinary period under the suspension and probation shall not exceed five (5) years,  
3 unless Respondent affirmatively fails to petition the Board to terminate the probation in  
4 accordance with paragraph nine (9) below.

5 The SUSPENSION and PROBATION are subject to the following conditions:

6 1. Respondent shall immediately return her pharmacy technician  
7 license to the Board for the period of suspension.

8 2. Respondent shall, within ten days of the effective date of this order,  
9 sign a five (5) year contract with PAPA and abide by each and every requirement  
10 of the PAPA contract. Failure to sign a PAPA contract or abide by the PAPA  
11 contract's terms is a violation of this Order.

12 3. Respondent shall pay all necessary fees and complete all Continuing  
13 Education requirements throughout the term of her probation to maintain  
14 Pharmacy Technician License No. 5700.

15 4. Respondent shall furnish all pharmacy employers with a copy of this  
16 Board Order throughout the term of her probation.

17 5. Respondent shall advise the Board immediately of any change in  
18 pharmacy employment status throughout the term of her probation.

19 6. Respondent shall furnish the Board with a list of all jurisdictions in  
20 which she maintains or has maintained licensure in the profession of pharmacy  
21 along with the registration numbers of said licenses.

22 7. Respondent shall obey all federal and state laws and rules governing  
23 the practice of pharmacy.

24 8. If Respondent violates this order in any way or fails to fulfill the  
25 requirements of this order, the Board, after giving the Respondent notice and the  
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1 opportunity to be heard, may revoke, suspend or take other disciplinary actions  
2 against the Respondent's license. The issue at such a hearing will be limited  
3 solely to whether this order has been violated.

4 9. Respondent shall appear before the Board at a regularly scheduled  
5 Board meeting five years after the effective date of this Order to request that the  
6 probation imposed by this order be terminated. Respondent's failure to petition  
7 the Board to terminate the probation shall extend the probation period.

8  
9 DATED this 20<sup>th</sup> day of MARCH, 2008.

10  
11 ARIZONA STATE BOARD OF PHARMACY

12 (Seal)

13  
14 By:



15 HAL WAND, R.Ph.  
16 Executive Director  
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1 ORIGINAL OF THE FORGOING FILED  
this 20 day of March, 2008, with:

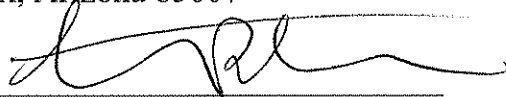
2 Arizona State Board of Pharmacy  
3 1700 West Washington, Suite 250  
4 Phoenix, Arizona 85007

5 EXECUTED COPY OF THE FOREGOING MAILED  
BY FIRST-CLASS and CERTIFIED MAIL  
this 20 day of March, 2008, to:

6 Rosalie Canaya  
7 4418 E. Paradise Drive  
8 Glendale, Arizona 85304

9 EXECUTED COPY OF THE FOREGOING MAILED  
this 20 day of March, 2008, to:

10 Elizabeth A. Campbell  
Assistant Attorney General  
11 1275 W. Washington Street, CIV/LES  
Phoenix, Arizona 85007

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